

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of San Marcos for an Order authorizing the construction of a public crossing at separated grades across the North County Transit District Escondido Subdivision main line within the City of San Marco, County of San Diego, C.P.U.C. Crossing No. 106E-113.90-A.

Application 03-07-015
(Filed July 14, 2003)

O P I N I O N**Summary**

This decision grants City of San Marcos' (City) request for authority to construct a grade-separated highway-rail crossing at a new alignment of Las Flores Drive across the North County Transit District (NCTD) Escondido Subdivision main line in the City of San Marcos, San Diego County.

Discussion

City's Las Flores Drive grade separation is needed to meet the vehicular traffic demands of the proposed Rancho Santalina Subdivision, accommodating one traffic lane westbound and one eastbound. Traffic generated by the housing development in combination with the build-out of the surrounding area is projected to increase future traffic volumes. In contrast with the highway-rail at-grade crossing option, the proposed grade separation will enhance the safety of the motoring public and train crews, and also provide improved vehicular traffic circulation.

NCTD owns and maintains the right-of-way within the project limits, which were originally owned and operated by Atchison, Topeka, and Santa Fe Railway Company. Burlington Northern Santa Fe Railway Company operates freight trains over these tracks.

The proposed Las Flores Drive overhead (CPUC Crossing No. 106E-113.90-A) will be a new aligned structure, spanning 191 feet over NCTD's right-of-way. The proposed concrete box girder bridge structure width is 42 feet and 9 inches with one 16-foot sidewalk and two 12-foot opposing traffic lanes. The horizontal clearances will be 26 feet and 6 inches above the existing centerline of NCTD's track.

City is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, as stated in Public Resources Code Section 21000 et seq. On April 14, 2003, City filed a Notice of Determination for this project, a copy is included in Appendix A, attached to the order.

The Commission is a responsible agency for this project under CEQA. CEQA requires that the Commission consider that portion of the environmental consequences of a project within its area of expertise that is subject to its discretionary approval. The specific activities that must be conducted by a responsible agency are contained in CEQA Guideline Section 15096.

The Commission has reviewed and considered the lead agency's environmental documents and finds them adequate for our decision-making purposes. Safety, transportation, and noise are within the scope of the Commission's permitting process.

The Notice of Determination found that the project would not have a significant unmitigated effect on the environment and that mitigation measures were made a condition for approval of the project. On April 8, 2003, City

approved a Final Mitigated Negative Declaration that identified impacts and associated mitigation measures (copy included in Appendix A). Specifically, there would be impacts to specified environmental concern areas including, aesthetics, biological resources, geology and soils, hazards and hazardous waste/hydrology and water quality, noise, public services and transportation/traffic.

The Final Mitigated Negative Declaration identified noise impacts, which will be mitigated to less-than-significant levels by sound walls, incorporating setbacks and noise barriers, using the buildings to shield exterior usable open space areas, or locating non-noise sensitive uses such as parking/carports, and installing sound-rated windows. For the other identified impacts, mitigation measures were adopted in order to maintain less-than-significant levels.

We believe that for environmental impacts for which mitigations were adopted, City adopted reasonable mitigations to either avoid or substantially reduce those impacts to less-than-significant levels. Therefore, we adopt those mitigations for purposes of our approval.

On December 22, 2003, the City filed a supplement to the original application to clarify the proposed track's vertical clearance. The minimum clearance from top-of-rail elevation on the existing and proposed track will be 26 feet minimum.

The Commission's Consumer Protection and Safety Division – Rail Crossings Engineering Section staff (RCES) inspected the site of the grade-separated project. After reviewing the need for and the safety of the permanent grade-separated crossing, RCES recommends that City's request be granted.

The application, as modified, is in compliance with the Commission's filing requirements, including Rule 38 of Rules of Practice and Procedure, which

relates to the construction of public highway-rail crossings and separations across a railroad. A site vicinity map of the Las Flores Drive grade separation is shown in the application and in Appendix B attached to this order.

In Resolution ALJ 176-3117, dated August 21, 2003, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. Since no protests were filed, this preliminary determination remains accurate.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

Findings of Fact

1. The Commission published a Notice of the Application in the Commission Daily Calendar on July 16, 2003. There were no unresolved matters or protests; a public hearing is not necessary.
2. City requests authority for a grade-separated highway-rail crossing at a new alignment of Las Flores Drive across the NCTD Escondido Subdivision main line in the City of San Marco, San Diego County, CPUC Crossing No. 106E-113.90-A.
3. City made minor modifications to the application to clarify the future track's vertical clearance.
4. The grade separation of Las Flores Drive is required to eliminate the hazard of train-vehicle collisions and motor traffic delays due to train movements.

5. Public convenience, safety and necessity require the permanent grade separation.

6. City is the lead agency for this project under CEQA, as amended.

7. On April 14, 2003, City filed its Notice of Determination approving the project and found that the proposed project will not have an unmitigated effect on the environment. A Negative Declaration was approved and adopted for the project. Mitigation measures were adopted as a condition of project approval.

8. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's environmental documents filed by City.

9. City's environmental documents are adequate for our decision-making purposes.

Conclusions of Law

1. There are no unresolved matters or protests; a public hearing is not necessary.

2. The Commission finds that for the environmental impacts for which mitigations were adopted, City adopted reasonable mitigations to avoid or substantially reduce the impacts to less-than-significant levels. We adopt those mitigation measures for purposes of our approval.

3. The application should be granted as set forth in the following order.

O R D E R

IT IS ORDERED that:

1. City of San Marcos (City) is authorized to have a permanent grade-separated highway-rail crossing at a new alignment of Las Flores Drive across the North County Transit District (NCTD) Escondido Subdivision main line in the City of San Marcos, San Diego, at the location and substantially as shown by

plans attached to the application and Appendix B of this order, to be identified as CPUC Crossing No. 106E-113.90-A.

2. The crossing design shall conform to all applicable Commission General Orders.

3. Construction and maintenance costs shall be borne in accordance with an agreement between City and NCTD (parties). Should the parties fail to agree, the Commission will apportion the costs of construction and maintenance by further order.

4. Within 30 days after completion of the work under this order, NCTD shall notify Consumer Protection and Safety Division's Rail Crossing Engineering Section in writing, by submitting a completed standard Commission Form G (Report of Changes at Highway Grade Crossings and Separations), that the authorized work is complete.

5. This authorization shall expire if not exercised within three years unless the Commission extends the time or if the parties do not comply with the above conditions. The Commission may revoke or modify authorization if public convenience, necessity or safety so require.

6. The application is granted as set forth above.

7. Application 03-07-015 is closed.

This order becomes effective 30 days from today.

Dated _____, at San Francisco, California.

Appendix A

NOTICE OF DETERMINATION

TO: Office of Planning and Research
1400 Tenth Street, Room 250
Sacramento, CA 95814

FROM: Planning Division
City of San Marcos
1 Civic Center Drive
San Marcos, CA 92069

LED

APR 14 2003

BY: *[Signature]* DEPUTY

☒ County Clerk/Recorder, Gregory J. Smith
P.O. Box 1750
San Diego, CA 92112-4147

SUBJECT: Filing of Notice of Determination in compliance with Section 21108 or 21132 of the Public Resources Code.

GPA 02-78(B)/R 01-107/MFSDP 01-31/CLUP 00-35/WGV 01-52/SP 00-34/TSM 416/ND 01-535

Project Title

Tom MarchMurray, PO Box 761100, San Diego, CA 92195, (760) 471-0500

Applicant Name, Address, and phone number

1998121056

City of San Marcos

760-744-1050

State Clearinghouse Number

Lead Agency

Phone Number

(if submitted to Clearinghouse Contact Person)

Location of S Santa Fe Rd approximately 1 miles W of Rancho Santa Fe Rd/Mission Rd intersection San Marcos San Diego
Project Location (include County)

(1) General Plan Amendment from L-M (Light Industrial) to Multi-family SPA (Specific Plan Area): Remove from Light Industrial/Design Zone to Multi-family; Multi-family Site Development Plan to construct an 88 unit apartment complex; Conditional Use Permit to allow for a temporary rock crusher; Grading Variance to allow slopes over 20' in height; (2) Specific Plan to allow development of a maximum of 183 residential units, and a potential 12 acre elementary school site; Tentative Subdivision Map to subdivide 40 acres into 248 lots.

Project description

This is to advise that the City of San Marcos has approved the above described project and made the following determinations regarding the above described project.

1. The project ☒ will, ☐ will not, have a significant unmitigated effect on the environment.
2. ☐ An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.
☒ A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures ☒ were, ☐ were not, made a condition of the approval of the project.
4. A statement of Overriding Considerations ☐ was, ☒ was not, adopted for this project.


This is to certify that the Negative Declaration is available to the general public at 1 Civic Center Drive, San Marcos, CA 92069

Date: 3/17/03

[Signature]
(Signature)
Planning Division Director
(Title)

FILED IN THE OFFICE OF THE COUNTY CLERK
SAN DIEGO COUNTY ON APR 14 2003
POSTED APR 14 2003 REMOVED MAY 15 2003
RETURNED TO AGENCY ON MAY 15 2003
DEPUTY *[Signature]*

CITY APPROVAL OF FINAL MITIGATED NEGATIVE DECLARATION

<p>1 Civic Center Drive San Marcos, CA 92069-2918</p>		<p>EXHIBIT "D"</p> <p>Telephone 760.744.1050 FAX: 760.744.9520</p>
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NOTICE OF DECISION

DATE: 4/16/2003 APPLICATION NO. GPA 02-79(B)/R 01-107/MFSDP 01-31/CUP 00-452/
GV 01-52/SP 00-34/TSM 416/ND 01-585

APPLICATION FOR: a General Plan Amendment, Rezone, Multi-Family Site Development Plan,
Conditional Use Permit, Specific Plan, & Tentative Subdivision Map

APPLICANT (1) Las Flores Santa Fe LLC & (2) Rancho Santalina

ADDRESS: Tom MacMurray & Steve Bieri, P.O. Box 261109, San Diego, CA 92196

PROPERTY LOCATIONS: (1) north side of South Santa Fe Rd. approximately .7 miles west
of the Rancho Santa Fe Rd./Mission Rd. intersection, and (2) the north side of
South Santa Fe Rd. south of Cherimoya Drive and approximately .7 miles west
of the Rancho Santa Fe Road/Mission Rd. intersection

PROJECT DESCRIPTION: (1) a General Plan Amendment from L-M (Light Industrial) to Multi-
family SPA (Specific Plan Area); Rezone from Light Industrial/Design Zone to Multi-family;
Multi-family Site Development Plan to construct an 88 unit apartment complex; Conditional
Use Permit to allow for a temporary rock crusher; Grading Variance to allow slopes over 20'
in height; (2) Specific Plan to allow development of a maximum of 183 residential units, and
a potential 12 acre elementary school site; Tentative Subdivision Map to subdivide 60 acres
into 248 lots.

DECISION OF: City Council ON: 04/08/2003

Adopted Resolution 2003-6081 approving GPA 02-79(B); introduced Ordinance No. 2003-1177 approving R 01-107; adopted Resolution No. 2003-6082 approving MFSDP 01-31 with addition of Condition M.7 as outlined by staff and additional requirement that disclosure be posted on property; introduced Ordinance No. 2003-1178 approving SP 00-34; adopted Resolution No. 2003-6083 approving TSM 416 with addition of Condition L.22 as outlined by staff and additional requirement that disclosure be posted on property; Resolution No. 2003-6084 approving GV 01-52; & adopted Resolution No. 2003-6085 approving CUP 00-452.

THIS NOTICE IS ONLY INTENDED TO ADVISE OF A DECISION. THE DECISION ITSELF AND ANY TERMS AND CONDITIONS PERTINENT THERETO ARE SET FORTH IN THE ACTION TAKEN BY THE CITY COUNCIL.

Appendix B
VICINITY MAP AND PLANS

